

Assembly Bill No. 2128

CHAPTER 384

An act to amend Sections 926.1, 926.2, 926.3, and 12939.2 of the Insurance Code, relating to insurer investments.

[Approved by Governor September 17, 2014. Filed with
Secretary of State September 17, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2128, Gordon. Insurer investments: community development.

Existing law requires each admitted insurer to provide information by January 1, 2014, to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California. Community development investments are investments where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- or moderate-income individuals, families, or communities, and includes, but is not limited to, investments in California in or through the California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, including green investments, if these investments directly benefit low- or moderate-income individuals, families, and communities and are consistent with applicable provisions. The commissioner and the Department of Insurance are required to provide certain information on community development investments and community development infrastructure investments to the public on the department's Internet Web site, as specified, by May 31, 2014, and biennially with regard to green investments. These provisions are to remain in effect only until January 1, 2015, and are repealed as of that date.

This bill would revise and recast these provisions by instead requiring each admitted insurer with annual premiums written in California equal to or in excess of \$100,000,000 for any reporting year to provide information to the commissioner on all of its community development investments, community development infrastructure investments, and green investments in California. The bill would require the information be reported by July 1, 2016, as provided. The bill would revise the information that the commissioner and the department are required to provide on the department's Internet Web site by, among other things, including information on the actions taken by COIN to analyze the data by insurers for the purpose of creating and identifying potential investment opportunities, as specified. The bill would extend the department's Internet Web site publication date

from May 31, 2014, to December 31, 2016, and would delete the biennial publication requirement for green investments and instead require a publication deadline of December 31, 2016. The bill would also extend the repeal date to January 1, 2020.

Existing law requires each insurer admitted in California that writes premium in California equal to or in excess of \$100,000,000 annually to develop, and file with the commissioner no later than July 1, 2011, a policy statement on community development investments and community development infrastructure investments that expresses the insurer's goals for those investments during the filing year and following calendar year. Thereafter, each insurer that these provisions apply to is required to biennially review its policy statement, and, if the insurer revises or changes its policy statement, submit the new policy statement to the commissioner no later than July 1 of each odd-numbered year.

This bill would delete the provisions requiring a biennial review by each insurer of its policy statement and the submission of a new policy statement if there is a revision or change.

Existing law requires the department, COIN, or any successor thereof, to require the CDFIs receiving specified tax credit investments to submit reports to the department, COIN, or any successor thereof, on their use of the program. Existing law authorizes the commissioner to establish and appoint a California Organized Investment Network Advisory Board. The term of each board member is 2 years and is staggered as provided. The board has certain powers and duties, including, but not limited to, advising COIN, or any successor thereof, on the best methods to increase the level of insurance industry capital in safe and sound investments while providing fair returns to investors and social benefits to underserved communities, meeting quarterly or as deemed necessary by the commissioner, and recommending programmatic guidelines, but not specific allocations of the tax credit amount, to the COIN program. The provisions regarding the board are in effect only until December 1, 2015, and are repealed as of that date.

This bill would delete the board members' staggered terms requirement. The bill would delete the quarterly meeting requirement, and would instead require a minimum of 3 or more meetings per year. The bill would also extend the repeal date to January 1, 2020.

The people of the State of California do enact as follows:

SECTION 1. Section 926.1 of the Insurance Code is amended to read:

926.1. As used in this article, the following terms shall have the following meanings:

(a) "Area median income" (AMI) means either of the following:

(1) The median family income for the Metropolitan Statistical Area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions.

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(b) “Community development investment” means an investment where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- or moderate-income individuals, families, or communities. “Community development investment” includes, but is not limited to, investments in California in the following:

(1) Affordable housing, including multifamily rental and ownership housing, for low- or moderate-income individuals or families.

(2) Community facilities or community services providers (including providers of education, health, or social services) directly benefiting low- or moderate-income individuals, families, or communities.

(3) Economic development that demonstrates benefits, including, but not limited to, job creation, retention, or improvement, or provision of needed capital, to low- or moderate-income, individuals, families, or communities, including urban or rural communities, or businesses or nonprofit community service organizations that serve these communities.

(4) Activities that revitalize or stabilize low- or moderate-income communities.

(5) Investments in or through California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, including green investments, if these investments directly benefit low- or moderate-income individuals, families, and communities and are consistent with this article.

(6) Community development infrastructure investments.

(7) Investments in a commercial property or properties located in low- or moderate-income geographical areas and are consistent with this article.

(c) “Community development infrastructure” means California public debt (including all debt issued by the State of California or a California state or local government agency) where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities and is consistent with subdivision (b).

(d) “Geography” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(e) “Green investments” means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new growth and jobs. “Green investments” also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation,

including, but not limited to, solar and wind power, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(f) “High-impact investments” means investments that are innovative, responsive to community needs, not routinely provided by insurers, or have a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

(g) “Insurer” means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(h) “Investment” means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(i) “Low-income” means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(j) “MSA” means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(k) “Moderate-income” means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(l) “Nonmetropolitan area” means any area that is not located in an MSA.

SEC. 2. Section 926.2 of the Insurance Code is amended to read:

926.2. (a) (1) Each admitted insurer with annual premiums written in California equal to or in excess of one hundred million dollars (\$100,000,000) for any reporting year shall provide information to the commissioner on all of its community development investments, community development infrastructure investments, and green investments in California. This information shall be reported by July 1, 2016, on investments made or held during the calendar years 2013, 2014, and 2015 and list, if applicable, investments that are high-impact, green, or rural. The information reported by insurers may include investments both held and originated, the percentage of any investment that qualifies, and why an investment qualifies. This information shall be provided as part of the required filing pursuant to Section 900 or 11131, or through a data call, or by other means as determined by the commissioner. The California Organized Investment Network (COIN) shall provide insurers with information on why investments, if any, were found not to be qualified by the commissioner.

(2) Nothing in this subdivision shall preclude an insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with paragraph (1) through a single filing on behalf of the entire group of affiliated companies, provided that the data so filed accurately reflects the investments made by each of the affiliates, and accurately attributes, by National

Association of Insurance Commissioners (NAIC) number or other identifier required by the commissioner, which of the investments were made by each affiliated company.

(3) This subdivision shall not preclude an insurer from satisfying the requirements of paragraph (1) through a filing made by a community development financial institution, provided all of the following conditions are met:

(A) The insurer has no less than a 10 percent ownership interest in a COIN-certified community development financial institution.

(B) The insurer makes community development investments and community development infrastructure investments in and through the community development financial institution.

(C) The community development financial institution accurately files the information required by paragraph (1) with the commissioner on behalf of the insurer and accurately attributes, by NAIC number or other identifier required by the commissioner, which investments, including the dollar amounts of the investments, were made by each insurer on whose behalf the community development financial institution is reporting.

(b) The commissioner shall, by December 31, 2016, provide all of the following:

(1) Information on the department's Internet Web site on the aggregate insurer community development investments and community development infrastructure investments. Insurers that make high-impact investments that are defined as innovative, responsive to community needs, not routinely provided by insurers, or have a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California shall be identified.

(2) Information on the department's Internet Web site on the actions taken by COIN to analyze the data by insurers for the purpose of creating and identifying potential investment opportunities, including the development of investment opportunity bulletins. This information shall state the efforts made by COIN to market and expand outreach to communities.

(c) The department shall also, by December 31, 2016, provide information on the department's Internet Web site regarding the aggregate amount of California public debt (including all debt issued by the State of California or a California state or local government agency) purchased by insurers as reported to the department in their NAIC annual statement filing pursuant to Section 900 or 11131.

(d) The department shall also, by December 31, 2016, provide on its Internet Web site the aggregate amount of identified California investments, as reported to the NAIC in the annual statement filed pursuant to Section 900 or Section 11131.

(e) The department shall also by December 31, 2016, provide information on its Internet Web site regarding the aggregate amount of identified California insurer investments in green investments.

(f) This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 3. Section 926.3 of the Insurance Code is amended to read:

926.3. (a) It is the policy of the State of California that (1) insurers should, where practicable, be supportive of community development investments and community development infrastructure investments, and insurers should be encouraged to invest in prudent community development investments and community development infrastructure investments that benefit California and California's low- and moderate-income communities; (2) every admitted insurer that writes a substantial amount of insurance in the state should consider community development investments and community development infrastructure investments; and (3) the California Organized Investment Network is a part of the department, and has the responsibility to pursue active measures to encourage community development investing by admitted insurers.

(b) Each insurer admitted in California that writes premium in California equal to or in excess of one hundred million dollars (\$100,000,000) annually shall develop, and file with the commissioner no later than July 1, 2011, a policy statement on community development investments and community development infrastructure investments that expresses the insurer's goals for these investments during the current and following calendar year. These filings shall be public information. For purposes of this subdivision, "policy statement" means a statement of principle intended to influence a decision or action. The policy statement may include general goals or specific investment goals, but is not required to contain specific investment goals or thresholds.

(c) The commissioner shall establish a link on the department's Internet Web site that provides public access to the contents of each insurer's policy statement and the data on community development investments and community development infrastructure investments provided by each insurer pursuant to subdivision (b).

SEC. 4. Section 12939.2 of the Insurance Code is amended to read:

12939.2. (a) The commissioner may establish and appoint a California Organized Investment Network Advisory Board.

(b) For purposes of this section, all of the following shall apply:

(1) "Commissioner" means the Insurance Commissioner of this state.

(2) "Board" means the California Organized Investment Network Advisory Board.

(3) "Licensed attorney" means an attorney who resides in this state who has successfully passed the California bar examination and has been admitted to practice in this state or has otherwise been licensed to practice law in this state by the State Bar of California.

(c) The board shall include the commissioner, or his or her designee, three executives in the insurance investment industry, and one volunteer from each of the following categories:

(1) A licensed attorney practicing insurance law.

- (2) A member of the public, appointed by the Speaker of the Assembly.
- (3) A member of the public, appointed by the Senate Committee on Rules.
- (4) A member of a consumer advocacy group.
- (5) An affordable housing practitioner.
- (6) A local economic development practitioner.
- (7) A member of a financial institution or a community development financial institution.
- (8) A representative with experience seeking investments for low- to moderate-income or rural communities.
- (d) The board shall elect, from among its members, a chair.
- (e) The term of each member shall be for two years.
- (f) The board shall have all of the following powers and duties:
 - (1) To advise the California Organized Investment Network, or any successor thereof, on the best methods to increase the level of insurance industry capital in safe and sound investments while providing fair returns to investors and social benefits to underserved communities.
 - (2) To meet a minimum of three or more times per year, or as deemed necessary by the commissioner.
 - (3) To facilitate contacts among executives at insurance companies, community-based organizations, and community development financial institutions.
 - (4) To recommend programmatic guidelines, but not specific allocations of the tax credit amount, to the California Organized Investment Network program.
- (g) The members of the board shall not receive compensation from the state for their services under this section but, when called to attend a meeting of the board, may be reimbursed for their actual and necessary expenses incurred in connection with the meeting.
- (h) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.